

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON ENERGY AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN MACK COLE**, on January 16, 2001 at 3:05 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Royal Johnson, Vice Chairman (R)
Sen. Steve Doherty (D)
Sen. Alvin Ellis Jr. (R)
Sen. Mike Halligan (D)
Sen. Bea McCarthy (D)
Sen. Walter McNutt (R)
Sen. Don Ryan (D)
Sen. Corey Stapleton (R)
Sen. Mike Taylor (R)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Todd Everts, Legislative Branch
Misti Pilster, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 243, 1/12/2001
Executive Action:

HEARING ON SB 243

Sponsor: SENATOR ROYAL JOHNSON, SD 5, Billings

Proponents: Governor Judy Martz

Pat Corcoran, Montana Power Company
Mike Hanson, NorthWestern Corporation
Tom Daubert, Ash Grove Cement Company

George Turman, Montana Electricity Buying Cooperative
Patrick Judge, Montana Environmental Information
Center

Lance Melton, Montana School Boards Association
Matthew Leow, Montana Public Interest Research Group
Debbie Smith, Natural Resources Defense Council
Roger Petersen, PPL Montana
Aidan Myhre, Montana Chamber of Commerce
Jim Morin, Energy West

Opponents: Bill Williams, Broadwater Irrigation

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 2.5}

SENATOR ROYAL JOHNSON, SD 5, Billings stated that SB 243 is trying to establish a reasonable and fixed rate for consumers from 2002-2007. This is important because it's the five year period after the rate freeze that is now 2.25 cents, which started in 1998. After the generation facilities were sold to PPL, a contract was made which said there would be a four year moratorium on the rates at 2.25 cents. Since those rates will end in 2002, we are trying to establish a price in one of the largest markets in history. A second goal to the bill is to ensure the system has reliable and qualified distributors and suppliers. Finally, this bill is designed to present a plan to encourage the effort to prepare for complete de-regulation.

SENATOR JOHNSON submitted charts, **EXHIBIT**(ens12a01).

Proponents' Testimony:

Governor Judy Martz, submitted written testimony,

EXHIBIT(ens12a02).

EXHIBIT(ens12a03)

{Tape : 1; Side : B; Approx. Time Counter : 5}

Pat Corcoran, Montana Power Company, submitted written testimony,

EXHIBIT(ens12a04). **EXHIBIT**(ens12a05)

Mike Hanson, NorthWestern Corporation, submitted written testimony, **EXHIBIT**(ens12a06).

{Tape : 2; Side : A; Approx. Time Counter : 4}

Tom Daubert, Ash Grove Cement Company, stated that Ash Grove and other companies did save a considerable amount of money over the course of 17 months at the beginning of de-regulation. However, those savings and more were lost in a single month. A few months later, they made the decision to shut down. This company is a significant tax-payer and important employer in the state which may not be here in 2002 without a different solution than is presented here, however useful this may be.

George Turman, Montana Electricity Buying Cooperative, submitted written testimony, **EXHIBIT(ens12a07)**.

Patrick Judge, Montana Environmental Information Center, submitted written testimony, **EXHIBIT(ens12a08)**.

Lance Melton, Montana School Boards Association, voiced his support of SB 243 and stated that the school districts he represents are less than 1000 kilowatt hours. He agreed with an earlier proponent that increasing the 5% limit to 10% (page 7, line 17) would be beneficial. Regarding lines 19-21, stating that the combined load must be evenly distributed among all customers, that requirement has been met with the cross-section of school districts represented. Concerning lines 23-24, he hopes this bill would provide more of an incentive for consumers to experiment with trying an alternative energy supplier.

Matthew Leow, Montana Public Interest Research Group, submitted written testimony, **EXHIBIT(ens12a09)**.

Debbie Smith, Natural Resources Defense Council, said clarification was needed in that the rate transition takes place after 2002 and that doesn't modify the existing rate moratorium period in order to allow rates to ease in before the moratorium ends. The workable competition standard that is in existing law that **SEN. JOHNSON** has proposed to be struck from the bill should be retained as it provides a useful standard for the Public Service Commission (PSC) in deciding whether competition exists after 2007. Currently, the bill mandates all power supply contracts that are entered into by the default supplier must be for the full five year period. She urged the committee to consider whether to put that into law or allow the contracting parties to justify that. Some consideration should be given as to whether all customers should be paying the same rate and whether MPC should be designated as the default supplier or remain with the current law allowing the PSC to decide among competing applicants. The default supplier needs to provide a certain percentage of it's default supply portfolio from a new renewable resource in Montana. Montana has enough wind to generate 15% of the nation's electricity needs. Obviously, not

all of that is developable due to siting and avian concerns, but that is a lot of clean generation that could be brought to the grid and many jobs for the state. They would like to see a provision added to section 9 requiring the default supplier to offer at least 5% of its portfolio from a new renewable resource, presumably wind. She submitted handouts

EXHIBIT (ens12a10) .EXHIBIT (ens12a11)

{Tape : 2; Side : B; Approx. Time Counter : 1}

Roger Petersen, PPL Montana, stated his group supports the concept of the legislation. During peak periods, they sell all of their energy to Montana Power, which is the default supplier. They own 25% of the 4000 megawatts of generation in Montana. The remaining 3000 megawatts produced is owned by Bonneville Power, Portland General Electric, Puget Sound Energy, Avista, PacifiCorp, Montana Power, and the qualifying facilities. With the exception of BPA sales to the co-ops and some of the QF power, all the power is exported. Prices rose this year for several reasons, including a shortage of generation in the west, an increase in population, poorly constructed rules for regulation, high temperatures, and fires. This bill provides a vehicle for finding a solution for consumers in Montana as it extends the transition period, selects a competent default supplier, supports long term contracting, and recognizes market-based rates for supply. They feel two areas need to be seriously looked at. These include the "opt-in" and "opt-out" provisions and the regulatory approval of the contract prices as just and reasonable.

Aidan Myhre, Montana Chamber of Commerce, feels that SB 243 strikes a delicate balance between affordable energy and the free market system. They support and encourage this bill.

Jim Morin, Energy West, said the selection of a default supplier and moving in this direction is critical. The sooner that happens, it will be helpful in addressing our concerns. One concern is that of what penalties would be assessed customers if they chose to leave the default supplier in favor of the market due to decreased energy prices. The ramifications of what this bill will do in terms of incentivizing customers to move to choice needs to be evaluated.

Opponents' Testimony:

Bill Williams, Broadwater Irrigators, stated that the ideal situation from the testimony previously heard would be a supplier having a guaranteed rate of income, with shareholders having a quarterly dividend of 40 cents per share and consumers having

power at a reasonable price. It seems that is what we had before 1997. After 2007 is it possible that the supplier would lower the supply as prices go down to make them rise?

Informational Testimony:

Bob Anderson, Public Service Commission, submitted written testimony, **EXHIBIT(ens12a12)**.

Tom Schneider, stated that this bill is a cut at a grand solution, which has settled a number of issues. However, the language in section three is far too complex and difficult to track. He would like to assure that customers do have the opportunity to return to default supply service. Lines 22-23 in section nine is a radical departure of anything that has existed for years, in terms of how electricity is priced to different classes. He urged the committee not to close the avenue for other legislation.

Questions from Committee Members and Responses:

{Tape : 3; Side : A; Approx. Time Counter : 1}

SENATOR STEVE DOHERTY asked what the \$150-200 million in cost differences and the necessity to make that up, in terms of the default supplier, means. **Pat Corcoran** referred to a previous chart and discussed a rate plan that went from roughly three to six cents. The first year, there would be 3.6 cents of revenues against 3.85 cents of cost. The 3.6 cents would grow over the five year period to 4.5 cents. The default supplier would contribute 3.6 cents of revenues toward the 3.85 cents of cost in the first year and the rate transition plan would make up the difference. That total number is what they've tried to estimate and could be in the range of \$160-200 million, based on the total power needs of the default supplier during that time. As for funding, they don't believe the default supplier should assume the responsibility, but rather state government and/or power suppliers to consider that funding. There could be state bond or other financial opportunities, such as coal severance tax. Whoever funded the transaction would be repaid at the end of the process. **SENATOR DOHERTY** then asked about the possible variances in delivery costs. **Mr. Corcoran** replied that those costs are supply costs. **SENATOR DOHERTY** asked what those costs would be, in addition to the supply costs. **Mr. Corcoran** said that on MPC's bills there are three components of costs - power supply, transmission, and distribution. Supply costs in bills today are roughly 40% of the total bill. **SENATOR DOHERTY** asked what we were looking at for a total cost, once everything is added in. **Mr. Corcoran** stated that an average residential rate is about 6.5

cents today. That is the total cost to a residential customer per kilowatt hour. Of that 6.5 cents, roughly 2.6 to 2.8 cents is supply costs.

SENATOR DOHERTY asked why it is a good idea to designate MPC as the default supplier now. **SENATOR JOHNSON** replied that the default supplier was named in SB 390. On December 15, the Public Service Commission (PSC) extended the transition period and renamed the default supplier because there was so much confusion. **SENATOR DOHERTY** asked for a comment on the fact that the PSC has to determine that conditions are just, reasonable and in the public interest before the approval of contracts and how that sounds like regulation. **SENATOR JOHNSON** said the contract is based on a spot market price. You can buy a contract for any length of time you would like if you wanted to buy it in the market. MPC will base the contract on the best possible purchase. After talking to suppliers, we decided to go out as far as we could. They start supplying power 18 months from now, so what we're doing is buying the contract out for six and a half years instead of five years.

SENATOR DON RYAN asked **Roger Petersen** whether it was correct that PPL has been supplying since December 1999 with a contract until July 2002. **Mr. Petersen** said that was correct. **SENATOR RYAN** asked about the source of the power that PPL supplies. **Mr. Petersen** replied that the source of the power, when available, is from the assets in Montana. During peak periods this summer and outages of units, power was purchased from outside of Montana and brought back in to furnish the needs of the state. There is also a 50% shortage of hydro power due to the lack of snowpack last winter. **SENATOR RYAN** asked what the cost of production has been in the last month. **Mr. Petersen** said that cost information on facilities is available through the PSC and that the cost of production for PPL is dependent on the market. **SENATOR RYAN** asked if there were plans to recapture the profit after 2002. **Mr. Petersen** stated that there is no control of the market.

SENATOR RYAN asked when companies such as Ashcroft and MRI would be able to "opt-in" under the bill. **SENATOR JOHNSON** replied that they would be able "opt-in" at the same time the contract is put together, which would be July 2002. Before "opting-in", they would have the opportunity to tell us the load they wanted and whether or not to change that load.

SENATOR DOHERTY referred to section nine and asked what it would mean if all default customers paid the same price, in terms of prices, signals, availability, and policy. **Bob Anderson** replied that this is a problematic section of the bill. He predicted that the large users would not "opt-in". Industrial customers

could aggregate themselves, go out on the market, and get a better rate because of their high load factor. In general, if everyone is required to pay the same price, it does not reflect the cost to supply those customers because customers are different.

SENATOR MIKE HALLIGAN asked if the price will be affected if the hydroelectric capacity is increased by the 50% that's been lost due to lack of snowpack in terms of a new contract after 2002.

Mr. Petersen stated prices would decrease due to excess capacity.

SENATOR HALLIGAN asked how the penalties had come about for those customers who leave the default supplier in favor of the market.

SENATOR JOHNSON replied that whether or not the customer elects to accept the service, they are expected to pay for that service if it's been agreed to.

Closing by Sponsor:

SENATOR JOHNSON stated this contract will be based on future prices. Hopefully, the default supplier will have enough supply people coming to them so there will be a choice as to what the price is. Loads fluctuate desperately and that's what is happening with the spot market. Power will be needed in 2002 and if we wait until then, the price could be more or less. We are going to let the suppliers and the distributor work out that price with the PSC.

ADJOURNMENT

Adjournment: 5:45 P.M.

SEN. MACK COLE, Chairman

MISTI PILSTER, Secretary

MC/MP

EXHIBIT (ens12aad)